

Appendix A

PROPOSED RULE MAKING

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FEDERAL TRADE COMMISSION

[16 CFR Part 428]

ADVERTISING OF CIGARETTES

Notice of Public Hearing and Opportunity To Submit Data, Views, or Arguments Regarding Proposed Trade Regulation Rule

Notice is hereby given that the Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., and the provisions of Part 1, Subpart B of the Commission's procedures and rules of practice, 16 CFR 1.11, et seq., has initiated a proceeding for the promulgation of a Trade Regulation Rule regarding the advertising of cigarettes.

Accordingly, the Commission publishes this notice and proposes the following Trade Regulation Rule:

§ 428.1 The Rule.

In connection with the sale, offering for sale, or distribution of cigarettes in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to fail to disclose, clearly and prominently, in all advertising the tar and nicotine content of the advertised variety or varieties in milligrams of tar (to the nearest whole milligram) and nicotine (to the nearest one-tenth milligram) per cigarette, based on the most recently published Federal Trade Commission test results.

The testing methodology currently used by the Federal Trade Commission is the Cambridge Filter Method specified in the FEDERAL REGISTER notice of November 4, 1966 (31 F.R. 11278), as described in an article entitled "Determination of Particulate Matter and Alkaloids (as Nicotine) in Cigarette Smoke," by C. L. Ogg, Journal of the Association of Official Agricultural Chemists, Vol. 47, No. 2, 1964, and as modified by the Federal Trade Commission in accordance with the FEDERAL REGISTER notice of August 1, 1967 (32 F.R. 11178).

Where a finally adopted Trade Regulation Rule is relevant to any issue involved in any adjudicative proceeding thereafter instituted, the Commission may rely upon the Rule to resolve the

issue: Provided, That the respondent shall have been given opportunity for a fair hearing on the applicability of the Rule to the particular case.

All interested persons, including the consuming public, are hereby notified that they may file written data, views or arguments concerning the proposed Rule with the Assistant Director for Food and Drug Advertising, Bureau of Consumer Protection, Federal Trade Commission, Pennsylvania Avenue and Sixteenth Street NW, Washington, D.C. 20580, not later than October 8, 1970. To the extent practicable, persons wishing to file written presentations in excess of two pages should submit 20 copies.

All interested persons are also given notice of opportunity to make oral presentations of data, views, or arguments with respect to the proposed Rule at a public hearing to be held at 10 a.m., e.d.t., on Thursday, October 15, 1970, in Room 532 of the Federal Trade Commission Building, Washington, D.C.

Any person desiring to present his views orally at the hearing should so inform the Assistant Director for Food and Drug Advertising, Bureau of Consumer Protection not later than October 8, 1970, and state the estimated time required for his oral presentation. Reasonable limitations upon the length of time allotted to any person may be imposed. In addition, all parties desiring to deliver a prepared statement at the hearing should file such statement with the Assistant Director for Food and Drug Advertising, Bureau of Consumer Protection, on or before October 8, 1970.

The data, views, or arguments presented with respect to the proposed Rule will be available for examination by interested parties at the office of the Assistant Secretary for Legal and Public Records, Federal Trade Commission, Washington, D.C., and will be considered by the Commission in the establishment of a Trade Regulation Rule.

All interested persons, including the consuming public, are urged to express their approval or disapproval of the proposed Rule, or to recommend revisions thereof, and to give a full statement of their views in connection therewith.

Issued: August 8, 1970.

By the Commission.

(SEAL)

JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 70-10357; Filed, Aug. 7, 1970;
8:47 a.m.]

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